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Nicaragua

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Nicaragua is a constitutional democracy, with a directly elected president, vice president, and unicameral legislature. In November 2001, voters elected Enrique Bolanos Geyer of the Liberal Constitutionalist Party (PLC) as President in a generally free and fair election. The Supreme Electoral Council (CSE) is an independent fourth branch of government; however it was subject to political influence. The Constitution provides for an independent judiciary; however, the judiciary was susceptible to political and financial influence.

The President is the supreme chief of the national defense and security forces. Former President Aleman established the first civilian defense ministry upon his inauguration in 1997; however, the Minister of Defense has limited authority over the military under the Constitution. The Ministry of Government oversees the National Police, which is charged formally with internal security; however, the police share this responsibility with the army in rural areas. The National Police continued to reduce the role of voluntary police (private citizens contracted by the National Police to help fill staffing gaps) in law enforcement. Use of voluntary police was discontinued in Managua; however, it continued in rural areas. The civilian authorities generally maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The market-based economy is predominantly agricultural; coffee, seafood, sugar, beef, light manufacturing, and tourism are key sectors. The country's population is approximately 5.3 million. A worldwide drop in coffee prices, the lack of an adequate legal framework to give confidence to domestic and foreign investors, a fragile banking system, large external debt, inflation, and unresolved property disputes and unclear land titles stemming from massive confiscations by the Sandinista government in the 1980s limited economic growth. The economy grew by 3 percent in real terms in 2001; however, the growth rate was expected to decline to approximately 1 percent during the year. The annual rate of consumer price inflation was expected to be 4 percent during the year, marking the fourth consecutive year of single-digit increases.

While the official projection of unemployment was 11 percent, unofficial estimates of combined unemployment and underemployment remained as high as 40 to 50 percent. The economy remained heavily dependent on foreign aid and remittances from abroad.

The Government generally respected the human rights of its citizens; however, serious problems remain in some areas. At year's end, there were ongoing investigations of those members of the security forces who were accused of having committed unlawful killings. Police continued to beat and otherwise abuse detainees. Some detainees credibly alleged that they were tortured.

Prison and police holding cell conditions remained harsh, and overcrowding increased. Security forces arbitrarily arrested and detained citizens; however, the number of such reports decreased during the year. The Government effectively punished some of those who committed abuses; however, a degree of impunity persisted. Lengthy pretrial detention and long delays in trials increased significantly. The 2001 Criminal Procedures Code took effect at year's end. The judiciary is subject at times to political influence and corruption. The Supreme Court ended its 5-year structural reform program of the judicial system with mixed success. The weakness of the judiciary continued to hamper prosecution of human rights abusers in some cases. The Human Rights Ombudsman made publicized recommendations during the year that openly challenged the actions of the security forces.

Violence against women, including domestic abuse and rape, remained a concern. Discrimination against women was endemic. Violence against children and child prostitution continued. Discrimination against indigenous people also occurred. Child labor continued to exist. Concern over violation of labor rights in free trade zones continued. There were several documented reports of trafficking in women and girls for the purpose of sexual exploitation. Nicaragua was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

The civil war formally concluded in June 1990 with the demobilization of the Nicaraguan Resistance (RN, or "contras"). However, the rule of law and basic infrastructure do not extend to all rural areas. Despite the Government's disarmament

campaigns, many citizens, especially in rural areas, are heavily armed.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of political killings by government officials; however, the police received 20 allegations of unlawful killings by police; each of these was referred by the Inspector General of the police to the courts. All of the cases were pending before the courts at year's end.

The Inspector General's Office of the National Police received 20 reports of police killing of alleged criminals and 103 reports of instances in which police seriously wounded criminal suspects while attempting to arrest them. The Inspector General remands to the court system for review all cases in which police use deadly force; however, the courts often take considerable time to process these cases and many of the cases never reach a final resolution in the court system (see Section 1.e.).

The police do not make a final decision on cases sent to the courts until the courts respond with a verdict. While the police await the decisions from the courts, the Inspector General's Office normally applies a mild punishment, such as suspension or confinement to precinct.

Of the 139 cases the Inspector General remanded to the courts during the year, 1 case had been completely adjudicated by the courts by year's end. In January police Captain Arnulfo Rocha Mora shot and killed 31-year-old Santos Jose Polanco in Teustepe.

A judge in Boaco indicted Captain Rocha for excessive force. Rocha claimed that he shot Polanco in self-defense and he was appealing the indictment at year's end. The police relocated Captain Rocha and allowed him to continue his duties while the appeal was underway.

On August 11, police officer Carlos Martinez Castillo shot and killed 37-year-old Jose Sabino Martinez Mendoza, a suspected trafficker in aliens or narcotics, in Villa Venezuela, a suburb of Managua, after he failed to stop at a police checkpoint. When Mendoza fled on foot after abandoning his truck, the police fired warning shots. When Mendoza did not heed the warning, Castillo shot him in the head. Police accused five men traveling with Mendoza of being illegal immigrants. Although the courts acquitted four of the men, the authorities deported all five. In August a court acquitted officer Castillo of first degree murder and manslaughter. By February, a joint police-military operation effectively had neutralized remnants of the pro-Sandinista "Andres Castro United Front" (FUAC) when it killed nearly 60 alleged FUAC members who had engaged in murder, kidnapping for ransom, and armed robbery in the north and north-central regions of the country since their disarmament in 1999.

The Nicaraguan Center for Human Rights (CENIDH), a leading human rights group, alleged that the army committed at least six human rights violations during the operation. Press reports indicated that the security forces beheaded some of the FUAC fighters. The army insisted that it had used necessary force to ensure domestic security during a legitimate operation. The army claimed that it had looked into these charges; however, it did not launch a formal investigation.

b. Disappearance There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law makes the use of torture a punishable crime; however, police continued to beat and otherwise abuse detainees. There were numerous credible reports that police beat or physically mistreated detainees, often to obtain confessions. CENIDH received 422 complaints of torture or degrading treatment by the authorities during the year and verified 201 of these.

The Inspector General's Office recorded 620 complaints of mistreatment by police, including those submitted by CENIDH, and found 191 to have merit. The Inspector General punished 351 officers in these cases. Among the complaints were 103 instances in which police seriously wounded criminal suspects while attempting to arrest them. By year's end, the police had dishonorably discharged 7 officers and referred 139 officers to the courts. The National Police reduced the law enforcement role of voluntary police, private citizens used on a volunteer basis to help fill staffing gaps in several precincts. The National Police provide them with a uniform, and in some cases, with a gun, at the discretion of the police chief.

Voluntary police do not receive a salary or professional training. The police can apply no administrative sanctions to the volunteers, other than to terminate their status. In 2000 former Chief of Police Franco Montealegre terminated the use of voluntary police in Managua; however, as of September, there were 1,681 voluntary police outside of Managua, a 22 percent decrease from the 2,170 in 2001. Several were implicated in human rights abuses during the year. The Inspector General's Office investigated allegations of abuse by the regular police and sanctioned the offenders in many cases; however, a degree of impunity persisted. Inadequate budget support for the National Police hampered efforts to improve police performance and resulted in a continuing shortage of officers. However, international assistance programs provided the police with extensive

training during the year.

The Inspector General's Office reported that it received a total of 399 complaints of human rights violations by police officers during the year, including complaints forwarded by the Office of Civil Inspection for Professional Responsibility, and found 85 to have merit. The Inspector General's Office punished a total of 131 officers for violations of human rights. Of those punished, the police discharged 1 officer dishonorably, remanded 50 to the courts, and gave the rest lesser punishments, including demotion, suspension, and loss of pay.

On February 23, a group of nearly 30 police, led by Captain Maribel Ruiz Lovo, wounded 15 people as they attempted to evict 13 families who were allegedly squatting on disputed land on the island of Ometepe. Civil District Judge Gloria Maria Arauz and Municipal Judge Hazel Sandino ordered the eviction. Police Subcommissioner Fidel Dominguez Alvarez authorized the eviction action. The police encountered violent resistance from the evictees and responded forcefully to them, up to and including firing their weapons. The evictees were reportedly unarmed, except for crude weapons such as rocks and sticks. The Supreme Court (CSJ) launched an immediate investigation of Judges Arauz and Sandino's roles in the case, and, less than a month later, both were dismissed from their judicial posts. The Police Inspector General immediately formed a special commission to investigate the police personnel involved and suspended Subcommissioner Alvarez during the investigation. In May a court convicted eight police officers involved in the raid, including Subcommissioner Alvarez and Captain Ruiz Lovo, and sentenced them to various terms in prison. The officers' appeals of their convictions were pending at year's end.

On March 16, Rivas police officers Justo Alcocer Fajardo and Jorge Ferrey allegedly beat 19-year-old Nestor Guadamuz Marengo, who eventually died of his injuries. A Rivas court detained the officers for 5 months during the ensuing investigation and trial. The trial ended in an acquittal, and both officers continued to serve on the police force at year's end. On April 19, a female detainee accused a guard, William Jesus Hernandez Mendez, of rape. An investigation by the Internal Affairs Office verified the allegations against Mendez based on forensic evidence. A court acquitted Mendez; however, the police gave him a dishonorable discharge for violating prison regulations prohibiting sexual relations between prisoners and guards. On July 15, a female prisoner in the Chinandega prison accused two guards, Felix Bertilio Moreno and Mariano Romero, of rape. The authorities detained them on July 16. An independent forensic scientist found no signs of violence and believed the incident to be consensual. The victim dropped the charges and the officers were released. However, the officers were stripped of their rank.

During the year, the police did not launch an investigation into the January 2001 police beating of Pedro Antonio Castro Baltodano in Managua. They maintained that no police personnel were involved in spite of allegations to the contrary by the Nicaraguan Association for Human Rights (ANPDH). It does not appear that any formal investigation will be initiated.

The trial of police officer Bismark Laguna for the June 2001 shooting of gang members Juan Carlos Mendoza and Lenin Calderon Mendoza in San Isidro, Matagalpa remained stalled and unresolved at year's end. Laguna was allowed to remain free pending the trial's conclusion. The presiding judge, Carla Emilia Lopez, said that the case was bogged down by a lack of interest on the part of the involved parties. There appeared little chance that a judgment would ever be made in the trial. Various NGOs provided the police and the army with human rights training (see Section 4).

Prison conditions remained harsh. The number of prisoners who spent 6 months or more incarcerated without a trial increased significantly (see Section 1.d.). According to government statistics, the prisons, with an official capacity of 5,132, had a total inmate population of 5,624 in December, compared with 5,060 in November 2001 and 4,903 in September 2000. Detainees were held separately from convicted prisoners (see Section 1.e.).

Prison guards received human rights training from NGOs and the Catholic Church and generally treated prisoners well, although there were some reports of abuses. There were no reports of riots or other violence during the year. The prison system remained underfunded and medical attention ranged from inadequate to nonexistent.

Medical care available to prisoners fell far short of basic needs. For example, for all 8 penitentiaries and 5,624 prisoners, prison authorities maintained a staff of 24 specialists, including doctors, psychologists, teachers, and social workers. Prison authorities also reported that 49 percent of prisoners were without beds; these prisoners slept on concrete beds or floors. Several churches, national and international NGOs donated foodstuffs, beds, and medicine to the prison system to help alleviate shortfalls. Prison officials calculated that the daily expenditure per prisoner for food was about \$0.50 (6 cordobas) and reported that the annual budget for food remained constant. There was some improvement in prison food, but malnutrition remained a problem in local jails and police holding cells. Many prisoners also received additional food from visiting family and friends.

Some prisons and many police holding cells were dark, poorly ventilated, and unhygienic. Conditions in jails and holding cells remained harsh. Police station holding cells were severely overcrowded. Suspects regularly were left in these cells during their trials, since budgetary shortfalls often restricted the use of fuel for frequent transfers to distant courtrooms. At the Bluefields jail, there were only 2 showers and 4 toilets for more than 105 prisoners. The authorities occasionally released detainees when they no longer could feed them. Only Managua has a separate prison for women; outside the Managua area, women were housed in separate wings in prison facilities and were guarded by female custodians. As of December, females made up 3.8 percent of the prison population. The Public Defender's office assigned two full-time employees to work with the women's prison system to help ensure its proper functioning in areas such as timely release of inmates granted parole. As of December, 1 percent of the prison population was between the ages of 15 and 18, less than a quarter of what it was in 1999. All youths were housed in separate prison cells from adults; the youths were on a different schedule for mealtime and recreational activities.

In August Casa Alianza and the Human Rights Ombudsman's Office published a survey of 85 underaged detainees throughout the penal system. According to the survey, the police did not inform over 21 percent of the respondents why they were being detained at the time of their arrest, the police mistreated 47 percent, and 48 percent said that they were detained 3 days or more before seeing a judge. Fully half said they were not aware of being assigned a defense attorney, and 24 percent said they were incarcerated with adults. The Director of Prison Systems maintained that children were held in separate cells and that their rights generally were respected. In September Casa Alianza and the Center for Justice and International Law presented a complaint to the Inter-American Human Rights Commission regarding the 1999 suicide of 16-year-old Wilmer Gonzalez Rojas inside the adult jail in Tipitapa. The IACHR had not decided whether to accept the case by year's end.

The Government permitted prison visits by independent human rights observers.

d. Arbitrary Arrest, Detention, Or Exile Arbitrary arrest and detention by the police remained a problem. The Police Functions Law requires police to obtain a warrant prior to detaining a suspect and to notify family members of the detainee's whereabouts within 24 hours. Compliance with this law increased significantly since 1999, largely due to pressure from the Police Internal Affairs office and support for compliance from the Chief of Police.

Detainees do not have the right to an attorney until they have been charged formally with a crime. Local human rights groups were critical of the law for providing inadequate judicial oversight of police arrests. Police may hold a suspect legally for 48 hours before they must bring the person before a judge to decide if charges should be brought. The judge then either must order the accused released or transferred to jail. Although cumbersome, this law was observed more closely than in the past, and few prisoners were held illegally beyond the 48-hour deadline (see Section 1.c.).

The number of prisoners who spent 6 months or more incarcerated without a trial increased significantly. In 2000, the Criminal Chamber of the CSJ ordered all local magistrates to give priority to those cases involving pretrial prisoners with 6 months or more of incarceration. However, according to government statistics, 10 percent of 5,624 prisoners had been in jail for 6 months or longer without a trial, up from 2 percent in 2001 and 4 percent in 2000. Statistics from the Department of Prisons indicated that 26 percent of all prisoners being held were awaiting final verdicts. Exile is not practiced. There were no reports of political violence against any citizens returning from civil war era self-imposed exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, the judiciary was susceptible to corruption and political influence. The judiciary was hampered by arcane legal codes, prosecutors who played a passive role, an underfunded and understaffed Public Defender's Office, judges and lawyers who often lacked sufficient training or education, and corruption. Many judges did not have previous experience as lawyers. Judges' political sympathies, acceptance of bribes, or influence from political leaders reportedly often influenced judicial actions and findings.

The judicial system comprises both civil and military courts. The 16-member Supreme Court is the system's highest court, and in addition to administering the judicial system, is responsible for nominating all appellate and lower court judges. The Court is divided into specialized chambers on administrative, criminal, constitutional, and civil matters. Under the Law of the Child and Family, which took effect in 1998, the Attorney General's Office rather than the police investigate crimes committed by and against juveniles. The 1994 military code requires the civilian court system to try members of the military charged with common crimes.

A 5-year administration of justice reform program, begun in 1997, achieved a number of its objectives, including a Judicial Organic Law and a new Criminal Procedures Code; however, the revision of the country's outdated Penal Code remained bottled up in the National Assembly. The 1999 Judicial Organic Law contained a provision that established minimum professional standards for judicial appointees. However, a Judicial Career law to establish a more professional and independent judiciary remained in the National Assembly for consideration and action at year's end. In December, the 2001 Criminal Procedures Code entered into effect. It will alter significantly the way that trials are held. Instead of the Napoleonic trial system that emphasizes the role of magistrates and written evidence, the new system will be an adversarial-style system that allows oral arguments from both the defense and the prosecution.

The Assembly began the process to approve a new Penal Code in 2000; however, an extended political dispute between the administration and the Assembly delayed the legislation. Nonetheless, in June the Penal Code was modified to include certain economic crimes, including illegal enrichment. In 1999 the National Assembly approved a reform of the Public Ministry that streamlined the judicial process by separating the defense and the prosecutorial functions. Specifically, the reform transferred powers from the Attorney General's Office (Procuraduria) to a newly created Prosecutor General's Office (Fiscalia), which is charged with prosecuting criminal cases. In November 2001, the National Assembly elected Julio Centeno Gomez to the new position of Fiscal General.

The Procuraduria continued to have the responsibility to defend the Government against legal action taken by private or other public actors. In addition, the Procuraduria was empowered to prosecute criminally persons when the state has been aggrieved; for example, the misappropriation of government funds by public officials. In 2000 the Government opened new property tribunals to handle cases concerning seized properties. In November, the CSJ consolidated these tribunals into a single tribunal due to budgetary concerns (see Section 1.f.).

The civil and criminal courts continued to expedite the judicial process for those in prison without a prior court hearing; however,

the number of suspects in prison awaiting trial increased. Human rights and lawyers' groups in general continued to complain about the delay of justice, sometimes for years, caused by judicial inaction. Judges appeared susceptible to corruption and political influence. The shelving of politically charged cases or rulings in favor of the politically connected party remained the most common manifestations of judicial corruption.

The Supreme Court's campaign to reduce incompetence and corruption in the judiciary slowed during the year. Since the campaign began in 1997, the CSJ has removed a total of 105 judges – more than one-third of the 300 judges in the system; however, only one judge was removed during the year. In criminal cases, the accused has the right to legal counsel, and defendants are presumed innocent until proven guilty.

The Judicial Organic Law provided for the establishment of a Public Defender's Office to represent indigent defendants. The office in Managua maintained a staff of 13 appointed public defenders throughout the year; however, more were needed. The court requested funding for 26 additional public defenders to be located outside of Managua, but only one of these requests was approved for Ciudad Dario.

Elsewhere in the country where public defenders were not available, the system in effect before the passage of the Judicial Organic law continued in use. Under that system, the presiding judge appointed attorneys from a standard list to represent indigent defendants; however, many attorneys paid a fine of about \$7.00 (100 cordobas) rather than represent such clients because the State did not pay for attorneys for the indigent.

According to press accounts, the number of indigent defendants who went to trial without an attorney to represent them decreased, despite difficulties in fully implementing the provisions of the Judicial Organic law. However, high-ranking officials in the Public Defender's Office complained that they continued to find judges willing to sentence defendants without the presence of a public defender. Until the end of the year, the country used the Napoleonic legal system. Police had to present a detained suspect before a judge within 48 hours, who had to hold a preliminary hearing within 10 days.

These constitutionally mandated deadlines were usually observed. If a judge ruled the suspect was provisionally guilty at the preliminary hearing, the suspect was sent to trial. While awaiting and undergoing trial, suspects were often held in custody. The trial consisted of hearings held by the judge to investigate the matter further, followed by a review of the written record of the hearings by a 5-member jury, which would issue a final decision. Very simple cases or those with high profile or outside interest could be resolved quickly, but others languished for months. Although the legal limit for resolution is 6 months, 560 suspects were held without trial for longer periods, according to the CSJ. On December 24, an entirely different system of prosecuting criminal cases entered into effect.

The new penal process is more adversarial and transparent and relies more on the initiative of prosecutors and less on the initiative of judges and magistrates to file charges. It prescribes an arraignment at which a judge decides whether to send the case to trial or dismiss it. Once the case reaches trial, the judge takes a neutral presiding role, and both sides present oral arguments to a jury.

The new system will be applied initially to the most serious offenses. By December 2003, the new system will apply to all criminal cases. The new system offers greater transparency by allowing the accused greater access to the process. However, its implementation could cause more trial delays as the judicial system adjusts to a radically different process, including potentially serious staffing shortfalls for prosecutors and public defenders, since they, rather than judges, take the lead in conducting trials under the new system. The country still lacks an effective civil law system.

Many criminal cases are really civil disputes. Often the effect of a criminal proceeding in these matters is to force one party to concede to the party with more influence over the judge rather than face the prospect of detention in jail. In addition, this civil-based criminal caseload diverts resources from an overburdened Public Prosecutor's Office that otherwise could be directed toward genuine criminal matters. There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides for protection against these abuses, and the Government generally respected these provisions in practice. The Constitution stipulates that all persons have the right to privacy of their family and to the inviolability of their home, correspondence, and communications; requires warrants for searches of private homes; and excludes from legal proceedings illegally seized letters, documents, and private papers. The 1979-91 Sandinista regime expropriated nearly 20,000 properties from Somoza regime officials and thousands of others, including those who remained out of the country for more than 6 months.

These property confiscations are considered legal, as are subsequent transfers of the property to third parties, as long as the confiscations were conducted according to the law in effect at the time of confiscation. The law provides claimants to confiscated property two methods of resolution. An administrative claim process allows compensation with long-term low-interest government bonds or, in a few cases, return of the property or land swaps. Bond compensation generally is unattractive to claimants, since it is based on the property's taxable value rather than market value, and makes no provision for lost profits or interest due since the date of confiscation.

Furthermore, compensation is paid in 15-year bonds with below-market interest rates. As of mid-year, newly issued bonds of this type sold at 37 percent of face value. Press reports indicated that at the end of June, a total of 7,488 persons had resolved their property cases. In 2000 the Government established five Property Appeals Tribunals that have procedures including mediation, binding arbitration, and expedited trials. As of August, the tribunals reported that 338 cases had been filed. Of these, 184 had passed through the mediation process, 62 (18 percent) of which were settled through mediated agreements.

When mediation was not successful, the cases were moved on to arbitration or were returned to district courts for expedited trials. As of July, 44 cases had gone to arbitration; however, none had completed that stage. In November, the CSJ consolidated all 5 tribunals into a single tribunal due to budgetary concerns. The tribunals receive property cases passed to them by the regular courts and, upon conclusion of mediation or arbitration, return the final decision to the appropriate regular court, which issues a court order containing the terms of the final mediation or arbitration results.

Most confiscated property claimants using the judicial system do not elect arbitration because the arbitrators are costly. Therefore, most cases not successfully mediated return to district courts for trial. The tribunals appear to be biased in favor of the current occupants of confiscated properties, even when they did not obtain the properties in accordance with Sandinista laws. These tribunals, like the judicial system as a whole, appeared to be subject to political and personal manipulation. Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. However, several constitutional provisions potentially qualify freedom of the press. The 1987 Constitution stipulates that citizens have the right to accurate information, thereby providing an exception by which the freedom to publish information that the Government deems inaccurate could be abridged. Although the right to information cannot be subject to censorship, the law establishes a retroactive liability, defined as a social responsibility, implying the potential for sanctions against the press.

Although the legislature did not modify these provisions in the 1995 constitutional reforms, the Government did not invoke these provisions to suppress the media. In March 2001, the National Assembly unanimously approved a law proposing a professional journalists' guild. The journalistic community was divided sharply over whether such a law would improve the quality of journalism or merely restrict freedom of speech and of the press.

The vagueness of language concerning the Government's role in establishing and regulating journalists' salaries, and its possible role in governing a professional journalists' association—and thereby journalism itself in the country—remained a concern to many observers. The law was to take effect with stipulations that formation of the guild occur within 3 months. However, the commission that would structure the journalists' guild had not been established by year's end due to conflicts between rival journalist associations whose members were to be grandfathered into the guild. Consequently, the law had no practical consequence during the year.

The privately owned print media, the broadcast media, and academic circles freely and openly discussed diverse viewpoints in public discourse without government interference. News media covered a series of scandals and allegations of government corruption very openly and without restriction. However, in October the Government closed down radio station "La Poderosa," run by supporters of former President Aleman, when it determined that the license held by Coprosa, a Catholic Church-affiliated NGO, was invalid because Coprosa had not completed all of the requirements to register legally as an NGO with the Ministry of Government.

Other media and some political leaders sharply criticized the closing of La Poderosa while at the same time stressing the need for all media to follow ethical standards and engage in better self-regulation. La Poderosa had broadcast language that sometimes incited attacks on the personal security of President Bolanos and other public officials. The Bolanos administration attempted to standardize the way that governmental advertising funds were allocated to the various media outlets by implementing a system based on market share.

This forced some smaller media outlets to close because the media were largely dependent upon government funding, and there was not enough private advertising to support them. There was one instance of possible media intimidation during the year. In July the police detained Luis Felipe Palacios, a reporter for La Prensa, the country's largest newspaper, to question him regarding a story that alleged that Major General Roberto Calderon, Inspector General of the Army, was involved in trafficking arms and drugs.

Accompanied by other La Prensa staff, a police escort took Palacios to the criminal investigation headquarters of the national police. There, investigator Dennis Tinoco allegedly threatened to arrest photographer Manuel Esquivel, who had accompanied the La Prensa group, for taking his picture, and refused to relent until the film was removed from the camera and exposed. Palacios was then interviewed briefly and released. Tinoco maintained that he had ordered the police interview to pursue any legitimate leads into criminal acts alleged by the story.

The police subsequently closed the case and publicly apologized for the incident after intense criticism from a wide range of media outlets and civil society groups, who viewed the incident as a clear intention to intimidate Palacios into not reporting on a sensitive case involving a senior military officer.

In October Tirso Moreno was arrested and charged with kidnaping and endangerment after he broke into the offices of the newspaper La Prensa, fired shots in the air, and held a dozen staff hostages for several hours. Moreno blamed La Prensa's reporting on corruption during the Aleman administration for the death of Aleman's son earlier in the day. Moreno was provisionally convicted on these charges, but the prosecutor appealed the decision, seeking the more serious charges of assault and attempted homicide. By year's end, there was no decision on this appeal. The Inter-American Press Association condemned the attack on La Prensa.

The news medium with the largest national audience is radio; however, polls show that television is the primary source of news in the cities. There are 174 chartered radio stations in the country, 68 AM stations and 106 FM stations; listeners receive a wide variety of political viewpoints, especially on the 67 stations based in Managua. There are 12 Managua-based television stations, 7 of which carry news programming, some with noticeable partisan political content. In addition, there are 70 cable television franchises that offer services in most large and medium-sized cities. The Government did not restrict access to the Internet. The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association The Constitution recognizes the right to peaceful assembly without prior permission, and the Government generally respected this right in practice. However, the Constitution also recognizes the right to public assembly, demonstration, and mobilization in conformity with the law, and the law requires demonstrators to obtain permission for a rally or march by registering its planned size and location with the police. The authorities routinely granted such permission; however, many groups claimed that the process was too cumbersome and chose not to register. The Constitution provides for the right to organize or affiliate with political parties, and the Government generally respected this right in practice. Opposition and independent associations functioned freely without government interference or restriction. Private associations do not have legal status to conduct private fund raising or receive public financial support until they receive authorization from the National Assembly, which confers it routinely.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Government's requirements for legal recognition of a church are similar to its requirements for other private associations (see Section 2.b.). A church must apply for "Personeria Juridica" (legal standing), which must be approved by the National Assembly. Following Assembly approval, a church must register with the Ministry of Government as an association or a foundation. The Roman Catholic Church is not an official state religion; however, it enjoys a close relationship with the Government. The Roman Catholic Church is the most politically active religious denomination and has significant political influence. Catholic Church leaders routinely meet with senior government officials. The historical position of the Church is such that most religiously affiliated monuments and memorials are related to the Catholic Church. At times there have been allegations that government officials have provided financial assistance to the Catholic Church. However, the predominance of the Catholic Church did not have a negative impact on the religious freedom of other religions.

For a more detailed discussion see the 2002 International Religious Freedom Report.

d. Freedom of Movement within the Country, Foreign

Travel, Emigration, and Repatriation The Constitution provides for the right to travel and reside anywhere in the country and to enter and exit the country freely, and the Government generally respected these rights in practice. In 1998 the Government abolished a requirement that citizens and residents obtain an exit visa to leave the country. The right of citizens to return to the country is not established in the Constitution, but in practice the Government did not restrict anyone's return.

The Constitution was amended in January 2000 to affirm that citizens cannot be deprived of their citizenship, and that citizenship is not lost by acquiring another citizenship. However, the Constitution retains certain citizenship requirements for high-level government officials, including the provision that they must renounce citizenship of other countries at least 4 years prior to their election or appointment.

In December the CSJ determined that the Government's May 2000 decision to nullify retroactively the citizenship of Jose Antonio Alvarado was unconstitutional, and that Alvarado had never lost his Nicaraguan citizenship. In June 2001, without waiting for a ruling from the CSJ, the CSE had disqualified Alvarado from running as the Vice Presidential candidate in the 2001 national election. This decision was widely portrayed as a political effort by then-President Aleman to block Alvarado's candidacy.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Constitution provides for asylum, and refugees cannot be expelled to the country that persecuted them. The issue of the provision of first asylum did not arise. There were no reports of the forced return of persons to a country where they feared persecution.

Section 3 Respect for Political Rights: the Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. National elections were held in November 2001. The 1995 reforms to the 1987 Constitution established a more equal distribution of power and authority among the four coequal branches of government.

The President heads the Executive Branch and a Cabinet appointed by the President, who is both head of state and head of

government, as well as supreme chief of the defense and security forces. The Vice President has no constitutionally mandated duties or powers. Both the President and Vice President are elected to 5-year terms by direct popular vote, with the possibility of a runoff election between the top two candidates if one does not obtain at least 35 percent of the vote on the first ballot.

The Constitution does not permit the president to hold consecutive terms in office. A single-chamber, 92-member National Assembly exercises legislative power. In 2001 voters elected 90 members, including 20 deputies from nationwide lists and 70 from lists presented in each of the 15 departments and the 2 autonomous regions. Under the constitutional reforms of 2000, the outgoing President and the presidential candidate receiving the second highest number of votes are each given seats in the National Assembly. Members elected concurrently with the President and Vice President in 2001 are scheduled to complete their 5-year terms on January 9, 2007.

The Supreme Electoral Council is an independent fourth branch of government. However, the CSE has been seriously undermined by internal political disputes (see Section 5). The constitutional reforms of 2000 changed the requirements that a presidential candidate must meet to avoid a second-round runoff election; expanded the Supreme Court from 12 to 16 judges; expanded the CSE from 5 to 7 magistrates; imposed a requirement for a two-thirds majority vote in the assembly, rather than the previous qualified majority vote, to lift the President's immunity from prosecution; and replaced the single comptroller general with a 5-person collegial body charged with investigating allegations of wrongdoing or financial malfeasance by government officials.

In addition, a political party loses its legal status if it obtains less than 4 percent of the vote in a general election. Based on this provision, the CSE declared the vast majority of parties ineligible to field candidates in the 2001 general elections—only 3 national parties competed in the elections, compared with over 20 parties in the 1996 elections. In November the CSJ overturned the CSE's exclusion of 29 parties from participation in previous elections as unconstitutional. In November 2001, generally free and fair national elections were held under the auspices of the CSE.

Voters elected Enrique Bolanos Geyer of the Liberal Constitutionalist Party as President with 56 percent of the vote; Sandinista candidate Daniel Ortega received 42 percent. In the simultaneous legislative elections, the ruling PLC alliance won 52 deputy seats, the FSLN won 37, and the Conservative Party (PC) won 1 seat. CSE reports indicated that over 90 percent of eligible voters were registered; the CSE also announced that more than 92 percent of eligible voters cast ballots. The FSLN alleged that irregularities in vote counting reduced the number of seats that it received in the Assembly, and the PC stated that the two main parties were trying to exclude it from the Assembly.

In March Judge Gertrudis Arias named former President Aleman in a corruption case involving the diversion of government funds from a state-owned television station, Channel 6, to businesses owned by Aleman, his relatives, and his associates. She did not indict him because he enjoyed immunity from prosecution as a National Assembly Deputy. In August, President Bolanos accused Aleman of diverting over \$100 million (1 billion, 400 million cordobas) from government coffers for personal benefit. Judge Juana Mendez named him in the case that was subsequently opened, but could not indict him because of his parliamentary immunity. In December, the National Assembly, by a majority vote, lifted his immunity. Judge Iliana Perez immediately placed him under house arrest for embezzlement and money laundering, and he remained under house arrest at the end of the year.

In September, in what was widely considered a political decision, Judge Mendez named President Bolanos, Vice President Rizo, and about 30 other leaders of the PLC in a campaign finance case. The case involved the alleged misuse of government funds and foreign government donations in the PLC's municipal election campaign in 2000 and its national election campaign in 2001.

Requests to lift the immunity of President Bolanos, Vice President Rizo, and several National Assembly Deputies were pending in the National Assembly at year's end. There are no legal impediments to the participation of women, indigenous people, and other minorities in government and politics. Women served as President and Vice President until January 1997, and a woman served as president of the CSE until January 2000. In addition, 3 of the 16 Supreme Court justices were female until July, when the terms of 5 justices, including one woman, ended. On October 25, the Magistrates of the Supreme Court of Justice (CSJ) elected Alba Luz Ramos as President, the first woman President in the history of the Court.

Women held ministerial, vice ministerial, and other senior positions in government; and voters elected 21 women to the National Assembly in November 2001, out of a total of 90 elected members. Women hold approximately 70 percent of the judgeships in the country. Two members of the National Assembly claim indigenous heritage. To ensure participation by indigenous groups, political parties must include on their party tickets a certain percentage of candidates from the various indigenous populations.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

With some exceptions, human rights groups operated without government interference. The largest group to deal with general issues of human rights was CENIDH. Many other groups focused on a particular area of human rights, such as Casa Alianza which primarily focuses on children's issues, and the Women's Network, which addressed domestic violence and other women's issues. CENIDH continued to conduct human rights workshops at the police training academy, at various police headquarters, and with army units throughout the country.

Some military officers received internationally sponsored human rights training. The Organization of American States (OAS) Technical Cooperation Mission (TCM) focused on the 13 municipalities affected most adversely by the decade-long civil war and worked on conflict resolution, reconciliation, improving local government, and extending legal infrastructure. The TCM and

Catholic Relief Services helped maintain more than 200 peace commissions in the northern and central parts of the country, intended to give inhabitants of the area a sustainable means of dispute resolution, a means of monitoring human rights abuses, and a vehicle for expressing their concerns to government authorities.

Many of the commissions operated in areas that were without any governmental presence and served as surrogates for absent police and courts. The Government granted legal standing to additional such grassroots organizations during the year. Some peace commission members initially reported that soldiers, rural police, and local residents sometimes misunderstood their efforts at advocacy on behalf of jailed criminals, interpreting them as challenges to law enforcement officials' authority. However, over the past several years, the commissions continued to report increased support from all elements they serve, including law enforcement.

The Human Rights Ombudsman's Office (PPDDH), the autonomous government-financed human rights office, struggled with budget shortfalls and intraoffice discord. A 1995 law created the PPDDH, with the Ombudsman to be elected by the National Assembly; however, it was not until 1999 that the National Assembly elected Benjamin Perez, formerly the head of the Assembly's Human Rights Commission, as the country's first Ombudsman.

There also are Special Ombudsmen for Children's Issues, Women's Issues, and Indigenous Affairs. The PPDDH began to investigate actively human rights violations during 2000, and Perez demonstrated his independence from the Aleman administration, pursuing cases even if they contradicted government policies. For example, the PPDDH weighed in heavily against the CSE's decision regarding Jose Antonio Alvarado, which Aleman supported (see Section 2.d.). The Aleman administration cut the budget of the Ombudsman's office by nearly 40 percent.

As a result of serious government-wide budget constraints, the PPDDH budget has not been restored or increased under the Bolanos administration, and the reduced operating budget has limited the effectiveness of the office and its ability to establish regional offices throughout the country. In July a public dispute between Perez and two of his Special Ombudsmen who wanted to have a greater hand in the direction of the office further undermined the PPDDH. After more than a month of rancorous charges and counter-charges, the three came to what they said was an amicable resolution of the dispute.

Section 5

Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits discrimination on the basis of birth, nationality, political belief, race, gender, language, opinion, national origin, economic condition, or social condition; however, in practice the Government made little or no effort to combat discrimination. Few, if any, discrimination suits or formal complaints were filed with government officials.

Women

The most prevalent violations of women's rights involved domestic and sexual violence, which were widespread and underreported. The National Police reported that of 41,487 reports filed by women between January and December, including reports filed at the Women's Commissariats through November, more than 19,788 concerned physical or sexual abuse, a 47 percent increase in the number of reported cases from 2001.

The 1996 Law against Aggression against Women reformed the Criminal Code to criminalize domestic violence and to provide up to 6 years' imprisonment for those found guilty of such violence. The law also provided for the issuance of restraining orders in cases in which women fear for their safety. The National Police, as well as local human rights groups, confirmed that while police sometimes intervened to prevent domestic violence, they rarely prosecuted perpetrators because victims often refused to press charges.

Those cases that actually reached the courts usually resulted in not guilty verdicts due to judicial inexperience with, and lack of legal training related to, proper judicial handling of such violence. In October the National Police Women's Commissariats as well as a number of human rights advocates expressed reservations about the potentially negative impact of the adversarial nature of hearing cases under the new Criminal Procedures Code.

Advocates expressed concern that victims of domestic violence could be less likely to bring charges under the new process since the victims, under the new system, have to face their abusers directly and have no assurance the abusers will be jailed. Under the old system, those accused of domestic violence were usually jailed while the judge investigated the case and made a preliminary ruling, a period of up to 10 days. This "cooling-off" period was seen as providing some protection to the victim. Advocates also fear that many judges could put undue pressure on domestic violence victims to use alternate mediation rather than endure a trial, in which they will face cross-examination.

The Criminal Code provides punishment for sexual abuse and stipulates that any person convicted of physically abusing or raping another person can be sentenced to between 9 months and 4 years in prison. According to statistics from the National Police, the police received 1,308 rape complaints during the year compared to 1,170 reported instances of rape in 2001.

Many women are reluctant to report abuse or file charges due to the social stigma attached to victims of rape. The police manage 13 women's commissariats in 13 cities with a total staff of 75 people. Each commissariat is located adjacent to a police station and is supposed to be staffed by six police officers, two social workers, one psychologist, and one lawyer. However, due to a lack of funding, the staff size is often limited to a far smaller number. The commissariats provide both social and legal help to women and mediate spousal conflicts.

They also investigate and help to prosecute criminal complaints and refer victims to other governmental and nongovernmental assistance agencies. As of November, the commissariats processed a total of 2,363 cases—1,867 cases of domestic violence and 496 cases of sexual infractions.

In May the Appeals Court denied the appeal by Zoilamerica Narvaez of the December 2001 decision of Judge Juana Mendez to drop sexual molestation, harassment, and rape charges against Daniel Ortega on the grounds that the 5-year statute of limitations had expired. The case was before the Supreme Court at year's end. On March 4, the IACHR held a hearing on the Narvaez case, focusing on the issue of whether the Government had denied Narvaez due process. The Government subsequently expressed its willingness to accept an "amicable solution" to the dispute, discussions on which were underway at year's end.

Prostitution is legal and common. According to a number of sources, including the Director of Police Criminal Investigations, Julio Gonzalez, and the Director of Police Economic Investigations, Carlos Bandana, prostitutes in the country work without a pimp, since prostitution is legal but pimping is not. Statistics from the Women's Commissariats showed only three cases of pimping for the year throughout the country. A number of studies supported this, including an intensive diagnostic done during the year by the University of Central America in the tourist city of Granada, in which all the under-aged prostitutes interviewed told the researchers that they operated on their own. In Managua most prostitutes work on the streets, clandestinely in nightclubs and bars, or offer sexual services in massage parlors. In towns along the Pan American Highway, women and girls sell sexual services to truck drivers and other travelers, who are often foreigners driving north from Costa Rica.

In port cities such as Corinto, the primary clientele are sailors. Corinto is unusual in that prostitutes receive medical examinations and a card certifying that they are free of disease. In addition, prostitutes in Corinto reportedly often work together to maintain a rudimentary price-setting structure that enabled them to earn much more than they would in other areas. However, in most areas, prostitutes do not have access to medical screening or treatment.

There were credible reports of isolated cases of the trafficking of women for prostitution (see Section 6.f.). The law prohibits sexual harassment in the workplace; however, it continued to be a problem. Although the Constitution provides for equality between the sexes, discrimination against women persisted.

According to a poll released in April 2000 by the Nicaraguan Women's Institute in conjunction with the Government, women comprised approximately 61 percent of the public sector labor force, a number much larger than in the private sector. It also showed that even with comparable educational backgrounds, salaries for male and female workers differed significantly, with men sometimes making twice as much as women in the same positions.

Even with similar qualifications, men advanced more quickly than women. Women constitute the majority of workers in the traditionally low-paid education and health service sectors. According to a 1998 "Nicaraguan Survey on Demographics and Health" by the National Statistical Institute, women have equal or somewhat better access to education than men, especially in urban areas.

Women are generally underpaid, but the majority of women have some type of employment. An October 2001 International Labor Organization (ILO) study concluded that of the 561,000 employed women, 184,000 were self-employed and 377,000 were salaried workers. More than 92 percent of women capable of employment have some type of job. There are many NGO and government programs that target discrimination against women, mostly by analyzing the status of women in the workplace. For example, the Program for Reform and Modernization of the Public Sector, directed by the Vice President, was formed in 1998 in an attempt to publicize issues of gender discrimination by collecting statistics on salary differences and hiring techniques in the public sector. The initiative produced a number of publications on the subject of women in the workplace, including an extensive study in 2000 of women working in the public sector and a manual distributed to managers in the public sector during the year that outlined procedures to prevent gender discrimination in the workplace.

Children

The Government publicly expressed its commitment to children's human rights and welfare; however, government-wide budget constraints prevented it from providing adequate funding levels to children's programs or primary education. A constitutional provision known as the 6 percent rule automatically allots 6 percent of the annual budget to a higher education consortium, often at the expense of funding for primary and secondary education programs.

Children 15 years of age and younger made up approximately 39 percent of the population. Education is compulsory through the sixth grade, but this provision is not enforced, and 20 percent of the population was classified as illiterate. According to census figures from 2001, primary school enrollment rates for boys and girls were estimated at 75 and 80 percent respectively, up from 73 and 75 percent in 1995. However, secondary school enrollment rates dropped to 35 and 45 percent from 1995 levels of 39 and 47 percent. Juvenile offenders under the age of 17 comprise less than one percent of offenders incarcerated. This low figure is largely attributed to the leniency given to juvenile offenders by the Children's Code, which rarely gives jail time to juveniles.

During the year, 47 minors died as a result of violent crime. During the same period, victims of rape included 277 children under the age of 13 and 658 between the ages of 13 and 17. There were an estimated 1,216 reported cases of child abuse (physical and psychological), 314 cases of child kidnapping, and 100 children who disappeared. The national police estimated that about 63 percent of sexual abuse victims were under the age of 18, and that 36 percent were younger than 13.

A study by the University of Leon indicated that 27 percent of girls and 20 percent of boys experienced sexual abuse. According to a Ministry of Labor study, over 676,000 children are at-risk and exposed daily to violence, abuse, exploitation, and neglect.

According to UNICEF, this number is expected to increase because the population of children under the age of 5 years who live on the streets is growing. According to local media and the Ministry of the Family, the incidence of child prostitution increased, especially in Managua, and near border cities and ports (see Section 6.f.).

The Child and Family Law provides that juvenile prisoners can no longer be held in adult facilities or for more than 24 hours without being charged (see Section 1.c.). Child labor is a problem (see Section 6.d.).

Persons with Disabilities

In 1998 the Ministry of Health created a National Council for Rehabilitation to address the needs of the 600,000 citizens with some type of disability, only 3 percent of whom received medical treatment. Through its clinics and hospitals, the Government provides care to war veterans and other disabled persons, but the quality of care is generally poor. However, with assistance from international NGOs, foreign governments, and the public health care system, the Government has procured thousands of prostheses and other medical equipment for veterans and former resistance members.

Despite some efforts, the Government's past role in helping the disabled is minimal and often has been criticized. It has not legislated or otherwise mandated accessibility to buildings for the disabled. In the spring of 2000, the Ministry of the Family announced that it would cut a considerable amount of financial support for the Blue Bird Protection Association that sheltered about 100 persons with disabilities, aged from 10 months to 40 years old, who are considered unable to care for themselves. Although the Ministry had agreed to cover a significant percentage of the Association's budget, its failure to do so forced the Association's employees to go without pay, and resulted in a significant decrease in medicinal, clothing, and food supplies.

Many organizations that help the disabled called for the Government to focus more attention on the needs and interests of persons with disabilities; however, the Government did not restore funding for the shelter. The Blue Bird Protection Association continued to operate the shelter with funds from private organizations, which hold an annual telethon to help raise funds. The 1995 Law to Protect Disabled People states that companies are obligated to contract persons with disabilities, that such disabilities cannot affect their salaries, and that they must be considered equal to other workers. However, representatives of the Danish Association of Disability noted that this law rarely is put into practice. This organization implemented a program called Prodinic, with the objective of strengthening the country's disabled associations by assisting 20 different groups in Managua, Masaya, Leon, Juigalpa, and Esteli. This group is lobbying for easier access to transportation and travel for the disabled throughout the country.

Indigenous People

Indigenous people constitute approximately 5 percent of the country's population and live primarily in the Northern Autonomous Atlantic Region (RAAN) and Southern Autonomous Atlantic Region (RAAS). The RAAN and the RAAS, which were created in 1987 out of the former department of Zelaya and which border the Caribbean Sea, constitute 47 percent of the national territory, but only 12 percent of the population.

Based on 1998 information from the Center for Investigation and Documentation of the Atlantic Coast and other sources, the 4 major identifiable indigenous groups are the Miskito (with approximately 100,000 members), the Sumo (10,000), the Garifuna (3,000), and the Rama (1,000). The indigenous people of the RAAN, primarily the Miskito and the Sumo, have a political party known as Yatama, which has representation in regional and municipal councils.

In 2000 the CSE ruled that the Yatama political party did not meet the qualifications to participate in the November 2000 municipal elections; however, it reversed its decision following the election after a high rate of abstentions in Yatama-dominated areas and threats of violence by Yatama supporters. Yatama was allowed to run departmental candidates for the National Assembly in the November 2001 national elections (see Section 3). In March the CSE held sparsely attended elections for the RAAN and RAAS Regional Councils.

The Regional Councils, created by the 1987 Law of Autonomy, are delegated limited authority to administer the economic, environmental, and cultural resources of the Atlantic Coastal Regions and to represent the political interests of the indigenous populations before central government institutions. The Councils are each composed of 45 elected members plus the region's delegation to the National Assembly; in the RAAN there are three Assembly Delegates, in the RAAS, two. Thus the RAAN Council has a total of 48 members, the RAAS, 47.

The Regional Councils met in May, as required by law, to select their respective governors and executive councils to oversee the day-to-day administration of the regions. The CSE, which has a PLC majority, refused to recognize these elections, which resulted in executive councils and governors that did not favor the ruling PLC. The delay continued for nearly 4 months in the RAAN and 9 months in the RAAS, leaving the Autonomous Regions without a regional government during this time. In the RAAN, Yatama became the power broker when neither of the national political parties managed to gain an outright majority in the 48-member Regional Council.

Yatama formed a coalition with the FSLN and in May elected an executive council and governor in a raucous election in which the PLC-affiliated CSE magistrates and the PLC Regional Council Members refused to participate. The CSJ ruled that the CSE had to reconvene the Regional Council, hold a new election for the Executive Council, and properly certify the election, which it finally did at the end of June. In the RAAS, the PLC held a substantial majority of the 47-member Regional Council; however, because of technical irregularities with the CSE's administration of the election, the CSJ once again ruled that the Regional Council had to reelect the Regional Governor and Executive Council.

A critical number of PLC Regional Council members refused to back their party's candidates for governor and executive council, leaving no majority in place. Maverick PLC members eventually formed a majority coalition with the FSLN and elected their own slate of regional officials. However, the election could not be certified because no one had been elected to replace the CSE President, Roberto Rivas, whose term had expired in July. Without any authorities in place to administer them, many regional and municipal projects in the RAAN and the RAAS were suspended, although the problem became more acute in the RAAS, where the uncertainty continued longer. The RAAS had no one with the authority to negotiate for funds from the national Government or foreign donors, and government salaries could not be paid. This furthered public perceptions of central government neglect, and led to threats of violence and the takeover of public facilities by frustrated citizens.

The 1987 Autonomy Law requires the Government to consult indigenous people regarding the exploitation of their areas' resources; however, indigenous people claim that the central Government often made decisions without adequate community consultation. For example, in July the central Government decided to announce its intention to solicit bids for oil and gas exploration off the Atlantic coast without consulting with either regional leaders or communities.

In August 2001, the IACHR determined that the Government violated the human rights of the Awas Tingni (Sumo) Community by granting 30-year logging licenses to foreign companies on nearly 153.2 thousand acres of Sumo ancestral lands without consulting the Sumo. The Commission ruled that the country's legal protections for indigenous lands were "illusory and ineffective" and ordered the Government to establish new legal mechanisms to demarcate the traditional lands of all indigenous communities in the country within 15 months.

The Commission also ordered the Government to pay \$30,000 (420,000 cordobas) to the Sumo and to invest \$50,000 (700 thousand cordobas) in projects beneficial to the Sumo. Pursuant to the IACHR's decision, the Government paid the \$30,000 and said it was committed to funding more than \$50,000 in Sumo community projects. The Ministry of Agriculture, the Office of Property Affairs in the Ministry of Finance, the regional authorities on the Atlantic Coast, and the Special Ombudsman for Indigenous Affairs formed a commission that proposed a number of legal changes and mechanisms to the National Assembly, including the clear demarcation and protection of indigenous lands. This legislation was voted into law in December, meeting the IACHR deadline, although there were serious reservations about how it would be implemented.

As in previous years, some indigenous groups complained that central government authorities excluded the indigenous people of the Atlantic coast from meaningful participation in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. A few residents of the RAAN threatened to take up arms to fight for independence from Managua if their needs were not addressed, but there is little concern that these isolated statements represent a threat by the indigenous communities.

On April 8, unknown persons shot and killed Francisco Jose Garcia Valle, husband of Dr. Maria Acosta, a lawyer for indigenous rights in the Atlantic Coast known for her work fighting the controversial sale by a private individual of the Pearl Cays off the coast. Garcia was a professor at a local university but not involved with his wife's political work. The circumstances surrounding his death sparked suspicions that it was a politically motivated murder by Acosta's opponents. The police investigating the crime later determined that three tenants of the family's rental apartment committed the homicide, and that robbery had not been a motive.

Press reports indicated that at least one of the suspected killers, Ivan Rivera, was employed as a chauffeur and security guard by the Pearl Cays' realtor, who was suspected to be the intellectual author of the crime. A judge issued an arrest warrant against Rivera but absolved the realtor. The police reportedly matched the 25-caliber murder weapon to one registered to the realtor, who alleged that the police falsified the ballistics report. By year's end, the police had not yet captured Rivera, but did arrest one of his suspected accomplices, who confirmed that Rivera led that group and committed the murder.

Government health care exists in the Atlantic Coast towns of Puerto Cabezas, Siuna, and Bluefields, but a majority of indigenous people in rural areas had no access to modern health care. Critics of government policy cited extremely high unemployment rates among the indigenous, but calculation of reliable employment statistics was complicated because most of the working indigenous population on the Atlantic Coast is engaged in subsistence fishing, farming, and mining.

National/Racial/Ethnic Minorities

Most citizens are of mixed background, and ethnicity is not a barrier to political or economic success. However, various indigenous and ethnic groups from both the RAAN and the RAAS sometimes linked the Government's lack of resources devoted to the Atlantic Coast to ethnic, racial, and religious minorities that predominate in that region. In contrast with the rest of the country, the region's racial makeup tends to be black and Amerindian, while its religious makeup is principally composed of various Protestant denominations.

a. The Right of Association

The Constitution provides for the right of workers to organize voluntarily in unions, and the Labor Code that entered into effect in 1996 reaffirmed this right. The ILO has criticized various provisions in the Labor Code that remain below international standards. All public and private sector workers, except those in the military and the police, may form and join unions of their own choosing, and they exercise this right extensively. The Labor Code permits the existence of more than one union, representing the same group of workers, at any place of employment. To become a union, a group of at least 20 persons must petition the Ministry of Labor for legal status and the right to engage in collective bargaining (see Section 6.b.).

The Labor Code legally recognizes cooperatives, into which many transportation and agricultural workers are organized. Representatives of most organized labor groups criticize these cooperatives, and assert that they do not permit strikes; have inadequate grievance procedures; are meant to displace genuine, independent trade unions; and are dominated by employers. According to the Ministry of Labor, approximately 15 percent of the work force is unionized. Unions are independent of the Government, although most are affiliated with political parties to varying degrees.

The Labor Code provides protected status to union leaders, requiring that companies receive permission from the Ministry of Labor after having shown just cause to fire union executive board members. Such protection is limited to nine individuals per union. However, the Labor Code allows businesses to fire any employee, including union organizers, provided the business pays the employee double the normal severance pay. Business leaders sometimes use this practice to stymie unionization attempts. Unions freely form or join federations or confederations and affiliate with and participate in international bodies.

b. The Right to Organize and Bargain Collectively

The Constitution provides for the right to bargain collectively, and the 1996 Labor Code reaffirmed this right. The Government generally sought to foster resolution of pressing labor conflicts (usually in the public sector) through informal negotiations rather than through formal administrative or judicial processes. According to the 1996 Code, companies engaged in disputes with employees must negotiate with the employees' union if the employees are thus organized. However, the possible existence of more than one union at any place of employment means that several unions, each with different demands, can coexist at any one enterprise. Similarly, management may sign collective bargaining agreements with each union.

The Constitution recognizes the right to strike; however, legal strikes are rare. The Labor Code requires a majority vote of all the workers in an enterprise to call a strike. The Labor Code requires that before a union may strike, it must first receive approval from the Labor Ministry. To obtain approval, the union must go through a process that requires good faith negotiation with management. The Labor Ministry asserts that it would take approximately 6 months for a union to go through the entire process to be permitted to have a legal strike. Observers contend that the process is inappropriately lengthy and so complex that there have been only three legal strikes since the 1996 Labor Code came into effect; however, there have been several illegal strikes.

The Labor Code prohibits retribution against strikers and union leaders for legal strikes. However, this protection may be withdrawn in the case of an illegal strike. Workers involved in illegal strikes often lose their jobs. There were several allegations of violations of the right to organize. The Ministry of Labor investigated these allegations and concluded that employers acted within the law, taking advantage of the extensive administrative requirements necessary to declare a strike legal. Notwithstanding the legality of employer actions, the result was to weaken significantly an important union in the free trade zone (FTZ), the Sandinista Workers Central (CST). In the last few years, though not during the year, the CST declared several strikes without first exhausting the very lengthy and complex administrative process of getting the required majority of the workers.

Consequently, the Ministry of Labor consistently ruled the strikes illegal. Employers then fired the striking workers based on the Ministry's ruling. In essence, employers took advantage of the extensive administrative requirements required to declare a strike legal and the CST's failure to follow the prescribed rules. The 2001 appeal by the textile firm Mil Colores of a judge's order reinstating Juan Carlos Smith Flores was pending at year's end. On October 11, 2001, the CST workers elected Maria Elia Martinez Rivas as union Secretary General. To comply with the 20-member requirement and avoid being decertified, the CST union enlisted new members.

On February 8, Mil Colores fired Rivas who claimed that she did not infringe on any regulations and had never received a reprimand. Rivas, with the aid of the CST, took the issue to court and alleged that, by impeding the workers' right to organize, Mil Colores violated the Constitution, laws, human rights, and international agreements ratified by the country. Her case was pending at year's end. Other than the Mil Colores incident, there were no other significant labor disputes during the year.

There are 39 enterprises operating in the government-run FTZ, employing approximately 25,000 workers. Labor laws apply equally in the FTZs, except for the minimum wage which varies by industry. In addition, there are 5 authorized private FTZs; the 11 enterprises in these zones employ some 17,000 workers, for a total of 42,000 workers in all FTZs. Approximately half the workers in the government-run FTZ are represented by a union organization; however, only about 10 percent of them are actual union members.

While some of these unions have real collective bargaining power, others are primarily symbolic. The Ministry of Labor reports that there were eight collective bargaining agreements in effect in the FTZs and five in the negotiation process. Union organizing efforts have encountered strong employer opposition in the FTZs.

In response to longstanding complaints by union representatives that the Ministry of Labor poorly enforced the Labor Code in the FTZs, in 1997 the Ministry opened an office in the Managua FTZ to ensure that the code was being enforced. FTZ officials claim that, due to memories of the corrupt and ineffective unions of the 1980s, many workers in the FTZ enterprises simply have no interest in unionizing. They also claim that wages and working conditions in FTZ enterprises are better than the national average. For example, some FTZ enterprises assert that they pay wages that average over \$192 (2,400 cordobas) per month, almost three times the minimum wage.

c. Prohibition of Forced or Bonded Labor

The Constitution prohibits forced or bonded labor but does not specifically address forced or bonded labor by children, and such practices occur. The Ministry of Labor continued to report that some children were forced to beg by their parents, and that some

were rented by their parents to organizers of child beggars (see Sections 6.d. and 6.f.).

In December, Hansae S.A, a Korean garment factory in the Free Trade Zone, violated the overtime provisions of the Nicaraguan labor code. Whereas the code permits overtime of no more than 3 hours per day and no more than 9 hours per week, labor unions and the Ministry of Labor charged, and Hansae officials admitted, that some employees at Hansae were working far in excess of the permitted number of hours. In some cases, employees were required to stay overnight, making for a 24-hour workday, two or three times a month. Hansae officials explained that the practice was recent and that it was due to unusually high demand for their products. The Hansae General Manager promised to discontinue the practice. According to union officials, the violation did not recur.

d. Status of Child Labor Practices and Minimum Age for Employment

The Constitution provides for the protection of children's rights and prohibits child labor that can affect normal childhood development or interfere with the obligatory school year; however, child labor is a problem. Comprehensive labor legislation protects children up to the age of 18. The Constitution also provides protection from any type of economic or social exploitation.

The law prohibits child labor in areas such as mines and garbage dumps and imposes heavy fines for illegal employment. The 1996 Labor Code raised the age at which children may begin working with parental permission from 12 to 14 years. Parental permission to work also is required for 15- and 16-year-olds.

The law limits the workday for such children to 6 hours and prohibits night work. However, because of the economic needs of many families, a cultural legacy of child work among peasants, and lack of effective government enforcement mechanisms, child labor rules rarely are enforced except in the small formal sector of the economy.

There are no reliable figures regarding the number of working children, but the Government reports that child labor occurs in both urban and rural areas. The Ministry of Labor estimates that approximately 300,000 children are employed; CENIDH estimates that there are approximately 322,000 working children. Over 148,000 children are employed in rural areas at coffee, tobacco, rice, and banana plantations. In Managua over 6,000 children work on city streets, selling merchandise, cleaning automobile windows, or begging. According to a 1998 UNICEF report, approximately 42 percent of children between the ages of 6 and 9 work.

A 1996 study by the National Commission against Child Labor concluded that over 161,000 children between 10 and 19 years of age worked, including approximately 109,000 employed in rural areas on coffee, tobacco, rice, and banana plantations. The study found that 6,219 children worked in urban areas as beggars, self-employed car washers, or parking attendants.

The Ministry of Labor continues to report that some children were forced to beg by their parents, and that some were rented by their parents to organizers of child beggars. Child prostitution is a serious problem (see Section 6.f.). The Ministry of Labor established an inspection unit to monitor occupational safety and health in the agricultural sector, signed agreements with nightclubs and restaurant owners who pledged to comply with labor laws and issued a resolution in 1999 prohibiting employment of minors specifically in the FTZs. The Ministry of Family sponsors several programs that target working minors. These programs, which cover up to 10,000 children nationwide, include childcare services, return-to-school programs, and technical and vocational training. The programs also include training for parents and teachers.

The Ministry of the Family, in conjunction with the Ministry of Education, established a program—known as the Traffic Light Plan—to keep 647 children off city intersections where they wash windshields, sell fruit, or beg for money from motorists stopped at red lights. The program provides housing for the 75 percent of these children who are homeless and schooling for the 60 percent who are school dropouts. The Ministry of Family reports that out of 600 children in the Traffic Light Plan, 498 (or 83 percent) returned to school. The remainder returned to the intersections to work.

e. Acceptable Conditions of Work

The statutory minimum wage is set through tripartite (business, government, and labor) negotiations and must be approved by the National Assembly. A different minimum wage, which must be reviewed every 6 months, applies to each sector of the economy. A new minimum wage scale took effect in April. The majority of workers earn well above the statutory minimum rates.

Ministry of Labor statistics indicated that during the year, the average minimum wage, i.e., the actual minimum wage paid by employers for each sector, was \$72 (1,058 cordobas) overall. By sector, the average minimum wage was as follows: agriculture, \$45 (661 cordobas plus food); fisheries, \$56 (818 cordobas); mining, \$137 (1,994 cordobas); industrial manufacture, \$74 (1,086 cordobas); electric, gas, and water utilities \$117 (1,711 cordobas); construction, \$119 (1,740 cordobas); restaurants and hotels, \$95 (1,383 cordobas); transportation, \$102 (1,495 cordobas); banking, \$92 (1,341 cordobas); community and social services, \$71 (1,038 cordobas); and central and municipal government (includes health and education employees), \$51 (743 cordobas).

Even the average minimum wage does not provide a decent standard of living for a worker and family. In every sector, the average minimum wage falls below the government estimate of what an urban family must spend each month for a basic basket of goods (\$141 or 2,065 cordobas).

The Labor Code incorporates the constitutionally mandated 8-hour workday; the standard legal workweek is a maximum of 48 hours, with 1 day of rest weekly. The 1996 code established severance pay at from 1 to 5 months, depending on the duration of employment and the circumstances of firing. However, persons fired for cause may be denied severance pay through a process that requires employers to demonstrate proof of worker misconduct. The code also established an employer's obligation to

provide housing to employees who are assigned temporarily to areas beyond commuting distance.

The Labor Code seeks to bring the country into compliance with international standards and norms of workplace hygiene and safety, but the Ministry of Labor's Office of Hygiene and Occupational Security lacks adequate staff and resources to enforce these provisions. The code gives workers the right to remove themselves from dangerous workplace situations without jeopardy to continued employment.

During the year, there were a number of incidents concerning worker injuries that reflected unacceptable conditions of work. On April 12, Jose de Jesus Miranda Perez received second degree burns from a steam press at the Rocedes plant, an FTZ factory. The Ministry of Labor fined the Rocedes plant \$667 (10,000 cordobas).

On June 23, Deyson Joel Herrera, age 19, lost part of his finger at the Nien Hsing International plant, located within a FTZ. After completing an accident report, Herrera was taken to the hospital, where the doctor attached what remained of the finger. When Herrera returned to the doctor on June 28 he was told that the health care contract with Nien Hsing International had ended, and that Herrera could no longer receive treatment.

On July 2, Orlin Frank Meza Orozco received second degree burns at the Chentex plant, located within an FTZ. Orozco was taken to the hospital where he received treatment.

In August Ericka Morales, the Rocedes factory supervisor attacked Maria Ramona Beltran Espinoza. Morales struck Espinoza with a metal bar after she inquired about her brother's wages, which she claimed had not been paid. Rocedes then terminated Espinoza's contract. Espinoza went to the Ministry of Labor for aid; however, the Ministry claimed that it could pursue no legal actions, as Espinoza was no longer an employee at the Rocedes plant.

The enactment of a 2001 law aimed at foreign companies prompted the filing of claims on behalf of thousands of banana workers seeking damages for exposure to the pesticide DBCP in the 1970s and 1980s when its use was legal in the country. The Attorney General's Office prepared an advisory opinion that questioned the constitutionality of certain provisions of the law.

f. Trafficking in Persons

Nicaragua has a statute that specifically prohibits trafficking in persons and assigns a penalty of up to 10 years in prison. While the preconditions for trafficking exist, there is little documented evidence of a substantial trafficking problem within the country; however, there is some limited evidence that the country is a source for trafficking in women and children to other countries for purposes of sexual exploitation. The Government instituted an awareness campaign with border police and immigration officials at entry points to Honduras to identify and question young women who are not accompanied by family members. In addition, the Government formed a 56-member Anti-Trafficking in Persons Unit within the police. According to the Ministry of Labor, strip clubs are inspected several times each year to ensure that there are no underage workers at these clubs.

The law does not make prostitution illegal, though it bans its promotion; however, the Child and Family Law, which took effect in 1998, defines statutory rape as sexual relations with children 13 years old and younger. Therefore, there is no legal prohibition on prostitution by juveniles 14 and older.

According to a number of sources, including the Director of Police Criminal Investigations, Julio Gonzalez, and the Director of Police Economic Investigations, Carlos Bandana, prostitutes in the country work without a pimp, since prostitution is legal but pimping is not. Statistics from the Women's Commissariats showed only three cases of pimping for the year throughout the country. A number of studies support this, including an intensive diagnostic done during the year by the University of Central America in the tourist city of Granada, in which all the under-aged prostitutes interviewed told the researchers that they operated on their own. Although national figures are not available, a study conducted in Managua in 1998 found that 40 percent of the 1,200 prostitutes in the city were under the age of 18. No numbers were available for other cities, but in 1998 UNICEF reported that teenage sexual exploitation had increased in recent years in rural areas, border cities, ports, and in Managua. UNICEF also noted significant growth in prostitution among children between the ages of 12 and 16 in towns where taxi drivers were said to serve as middlemen. OAS personnel in the country also noted an increase in prostitution among girls as young as 10 years of age; in rural areas, their clients are often truck drivers and other travelers, including foreigners, who patronize prostitutes in towns along the Pan American Highway. From December 1998 to May 1999, the Ministry of the Family sponsored an investigation into child prostitution in five municipalities.

Of the more than 300 children surveyed, 82 percent reported that they had started engaging in prostitution within the past year. Many of those surveyed said that they engaged in prostitution to buy basic necessities such as food and clothing, or to support a drug habit. A 1999 survey by the NGO Casa Alianza reported that of 520 children, 504 admitted to using drugs, usually glue. There have been cases of adults who exchange sexual favors with street children in return for glue.

In 1999 a National Forum against the Sexual and Commercial Exploitation of Children and Adolescents was created to fight for children's rights and bring this issue to the public's attention. During the year, it held a number of public forums on children's issues and trafficking in persons and distributed a number of substantial anti-trafficking publications to the public.

According to press reports, five Nicaraguan women, ages 20-25, were taken to Guatemala by Janeth Esperanza Rivera in May. Rivera promised the women jobs as sales clerks, and a better life in Guatemala. Upon arriving in Guatemala, Rivera sold the

women to a group of unidentified men, who locked them up in a room. The women were only allowed out to be prostituted. This continued for 5 days, until 4 of the women escaped and reported the incident to the Guatemalan police. Rivera was captured and a police investigation of her records revealed Rivera had been trafficking women into Guatemala for months. None of the women from the previous trafficking have been located or interviewed.

In October police detained three 17-year-old women near the town of Chinandega traveling to Guatemala. The women were being driven to Guatemala to work in brothels there. Although the women indicated they were not deceived or coerced into going, their travel and work was being facilitated by three alleged traffickers, who were detained by police. The three facilitators were charged with trafficking, but a court in Chinandega acquitted them due to a lack of evidence that trafficking had occurred.